IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4653 OF 2006

Shri Vijay Samson Kale
and ors. ..Petitioners

Vs.

Shri Suresh Kashinath Dhankawade ..Respondent

Mr. U.B. Nighot for petitioners.
Mr. M.T. Pise for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : August 10, 2006.

P.C.:

1. Heard Mr. Nighot the learned counsel for the petitioners who were the respondents in Application No.28 of 2003 filed under Section 24 of the Maharashtra Rent Control Act, 1999 by the landlord before the Competent Authority, Rent Control, Pune Division at Pune. The said application was allowed by the Competent Authority on 29/1/2004 and the petitioners were directed to hand over vacant and

peaceful possession of the suit flat and they were also directed to pay damages at the rate of Rs.3000/- per month from 15/7/2003 as per the Judgment and Order dated 29/1/2004. The said decision was challenged by the petitioners in Rent Revision No.122 of 2004 and the learned Additional Commissioner, Pune Division, Pune has been pleased to dismiss the said revision vide his judgment and order dated 1/7/2006 and confirmed the decision of the Competent Authority. Hence this petition against the concurrent findings recorded by both the authorities below.

2. It was the case of the petitioners in their Written Statement at Exh.14 filed before the Competent Authority that they were staying in the suit flat existing in the place of the suit building right from 1979 and paying monthly rent of Rs.200/- and in the year 1991 the landlord proposed to built new building on the said plot and the landlord expressed his willingness to give a flat to the petitioners in the new building at the concessional rate of Rs.210/- per sq.ft. and, therefore, they agreed to purchase a flat admeasuring 575 sq.ft. According to the petitioners

they had, towards the sale consideration, paid the following amounts:-

(a)	Rs.16,000/-	on 19/11/91
(b)	Rs.41,750/-	on 13/11/91
(c)	Rs.51,750/-	on 13/11/91
(d)	Rs. 1,000/-	on 21/11/91
(e)	Rs. 2,000/-	on 1/12/91
(f)	Rs. 2,000/-	on 23/12/91
(g)	Rs. 6,000/-	on 17/01/92
(h)	Rs. 5,000/-	on 25/06/92 and
(i)	Rs.15,000/-	on 20/10/93

3. On these grounds the petitioners contended that the story of the landlord that the suit flat was given to them on licence basis was false and that the licence period has expired on 14/8/2002 was denied. They also disputed that the flat was given to them on leave and licence basis for a period of 11 months on the basis of the agreement registered at Sr.No.4216/02. The landlord had pointed out that the petitioners were enjoying the flat illegally and,

therefore, legal notice was issued on 14/7/2003 after the lease period had expired and the lease period was from 15/8/2002 to 14/7/2003 and the landlord also contended that the deposit amount of Rs.10,000/- was returned to the petitioners under Cheque No.296041 dated 25/6/2003. The Competent Authority on assessing the evidence and the respective contentions held that the petitioners were the licensees of the suit flat on the basis of the agreement registered with the Sub Registrar, Haveli No.IX, Pune at Sr.No.4216/02 on 14/8/2002 and the said agreement was for a period of 11 months. The contentions of the petitioners that they were the intended purchasers of the flat and they were occupying the suit flat as the owners on the basis of the agreement for sale were rejected. Consequently, the Competent Authority also rejected the contentions of the petitioners that the applicant before the Competent Authority was not the landlord within the meaning of Section 24 of the Maharashtra Rent Control Act, 1999.

4. In the revision before the Additional Commissioner, on perusal of the record before the

Competent Authority including the evidence of both the parties, the following observations have been made in the impugned decision dated 1/7/2006:-

> "It is a fact that the agreement of leave and license between the parties to the dispute was registered vide No.4216/2002 dated 14/8/2002. It was the contention of the revision applicants before the competent authority, that they were staying in the suit premises since 1993 in the capacity of proposed purchasers. However, both of them admitted in their cross-examination that they had no evidence to show that they had paid money to the opponent towards the consideration of the suit premises and that the alleged agreement of sale between the parties to the dispute in relation to the suit premises was not in writing, as contended by them. The revision applicants also failed to prove that the opponent had got the agreement to leave and license executed by playing fraud or coercion with them..."

5. The Revisional Authority also referred to the decision of this court in the case of Sails India vs. Rita M. Rupani (1997 (2) Mh.L.J. 269) and Rajendra B. Nail vs. Suresh D. Dyanmothe and anr. (2002 (4) Mh.L.J. 93) as well as a decision of the Supreme Court in the case of Tulsi vs. Paro (Dead)(SMT) [(1997) 2 SCC 706 and while agreeing with the view taken by the Competent Authority that the petitioners were the illegal occupants of the suit flat as the license period of 11 months had expired on 14/7/2003, the revision came to be dismissed.

6. The concurrent findings recorded by the courts below on the issue of leave and license agreement having been registered between the parties and its expiry after a period of 11 months and the defence taken by the petitioners having been rejected, cannot be called as perverse or patently erroneous so as to cause interference under the supervisory powers of this court under Article 227 of the Constitution.

7. The petition is, therefore, rejected

summarily. Ad-interim order stands vacated.

8. The learned counsel for the petitioners at this stage makes an oral application for time to vacate the suit flat. In reply, the learned counsel for the landlord states that the flat has already been vacated and the petitioners have only put their lock and kept the suit flat locked. In view of this statement, the prayer for time to vacate the suit flat is hereby rejected.

(B.H. Marlapalle,J.)